

## REMARKS

Claims 4 - 7 and 12 - 28 have been amended.

Claims 1 - 3 and 8 - 11 are withdrawn.

No Claims have been cancelled.

Claims 29 - 37 have been added.

Claims 4 - 7 and 12 - 28 are currently pending in this application.

Claims 4 and 12 are in independent format.

### **1. 35 U.S.C. § 101**

The Examiner's rejection of Claims 4-7 and 12-28 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter is respectfully traversed.

The Examiner initially has rejected Claims 4-7 and 12-28 as being directed to non-functional descriptive material. Applicant has followed the Examiner's suggestion that the claims be redrafted to include a computer readable medium such that the claimed software in combination with the computer readable medium will be capable of producing a useful, concrete, and tangible result. Accordingly, Claims 4-7 and 12-28 as amended are now believed to be directed towards functional material to effect a practical application that results in a useful, concrete, and tangible result as required under 35 U.S.C. § 101.

Specifically, independent Claim 4 has been amended to clarify that a computer-readable medium includes program instructions for displaying a list of buyer identifications having associated desired product identifications which correspond to identified inquiry product identifications, seller identifications having associated

available product identifications additionally corresponding with the inquiry product identification, and associated product prices corresponding to the inquiry product identification. This provides an operator the opportunity to facilitate a commercial trading transaction between a buyer desiring a product, and a seller offering the desired product at an associated price.

Similarly, independent Claim 12 has been amended to clarify that a computer-readable medium includes program instruction to provide a method for facilitating commercial dairy product trading transactions, including the steps of displaying stored data in response to input data, and optionally altering the stored data through associated interfaces to facilitate

**2. 35 U.S.C. § 112**

The Examiner's rejection of Claims 12-28 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is respectfully traversed. The Examiner specifically indicates that the recitation in Claim 12, line 10 of "said displayed data" is unclear as to which "data" is being referred to. Applicant has amended Claim 12 such to eliminate the ambiguity, and as such, Claim 12 is now believed definite under 35 U.S.C. § 112, second paragraph. Dependent Claims 13-28 are now believed to be rendered definite for the same reasons as Claim 12.

**3. 35 U.S.C. § 102(e)**

The Examiner's rejection of Claims 4-7 under 35 U.S.C. § 102(e) as being anticipated by U.S. Published Application No. 2001/0032165 A1 to *Friend et al.* is respectfully traversed.

United States published application No. 2001/0023165 A1 to *Friend et al.* sets for a method and apparatus for internet connectivity for buyers, sellers, and transporters in an agricultural marketplace. The *Friend et al.* reference discloses a system whereby sellers are able to post transaction offer notices in a database, which are available to all other participating users. Buyers are then able to search the database for transaction offer notices which satisfy their individual search criteria, and to negotiate directly with the individual sellers for transaction terms and prices. In essence, the *Friend et al.* reference discloses a “business-to-business” interactive application. (¶0032).

The *Friend et al.* reference fails to disclose a method for facilitating brokered commercial trading transactions as set forth in amended Claims 4-7. The system and method of the *Friend et al.* reference is configured and implemented such that buyers and sellers exchange information directly, and individually negotiate transactions. The *Friend et al.* reference does not disclose the display of buyer and seller information in a broker interface to a broker, whereby the broker efficiently matches a sellers products to a buyers need in an efficient manner enabling the broker to earn a commission or fee.

The MPEP §2131 provides:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference.” *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d. 628, 631 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Since the *Friend et al.* reference fails to disclose all of the steps set forth in the method of independent Claim 4, as amended, the *Friend et al.* reference fails to anticipate Claim 4. Specifically, the *Friend et al.* reference does not disclose a method for facilitating brokered commercial trading transactions including displaying to a broker, a broker interface including a list of buyer identifications, seller identification, and associated product prices for products corresponding to an input inquiry product identification, and whereby a displayed broker interface is utilized by a broker to facilitate a commercial trading transaction between a buyer desiring a product, and one or more sellers offering the desired product at associated prices.

Dependent Claims 5-7 each depend directly from Claim 4, and as such, require the same limitation as Claim 4. Hence, since the *Friend et al.* reference fails to disclose all of the steps set forth in the method of independent Claim 4, as amended, the *Friend et al.* reference fails to anticipate each of Claims 5-7 for at least the same reasons.

**4. 35 U.S.C. § 103(a)**

The Examiner's rejection of Claims 12-28 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Published Application No. 2001/0032165 A1 to *Friend et al.* is respectfully traversed. The Examiner's stated basis for the rejection is that while "*Friend* does not disclose receiving input load settlement information and displaying the same in response to input ... it would have been obvious to one of ordinary skill in the art at the time the invention was made to receive any type of input information in the system taught by *Friend* because the subjected interpretation of the queries does not patentably distinguish the claimed invention."

United States published application No. 2001/0023165 A1 to *Friend et al.* sets for a method and apparatus for internet connectivity for buyers, sellers, and transporters in an agricultural marketplace. The *Friend et al.* reference discloses a system whereby sellers are able to post transaction offer notices in a database, which are available to all other participating users. Buyers are then able to search the database for transaction offer notices which satisfy their individual search criteria, and to negotiate directly with the individual sellers for transaction terms and prices. In essence, the *Friend et al.* reference discloses a “business-to-business” interactive application. (¶0032).

However, the *Friend et al.* reference fails to disclose a method for facilitating brokered commercial trading transactions as set forth in amended Claims 12-28. The system and method of the *Friend et al.* reference is configured and implemented such that buyers and sellers exchange information directly, and individually negotiate transactions. The *Friend et al.* reference does not disclose a computer-readable medium having stored thereon program instructions executable by a computer to provide a set of application program interfaces for utilization on a networked computer system in conjunction with an application program to provide a method for facilitating brokered commercial dairy product trading transactions. Specifically, the *Friend et al.* reference fails to render obvious at least the step of enabling, through the broker, at least one commercial dairy product trading transaction between at least one buyer and at least one seller utilizing stored data and stored dairy product load settlement data.

The *Friend et al.* reference discloses a system and method whereby buyers and sellers of products can interact directly via a set of interfaces to negotiate a transaction.

The *Friend et al.* reference does not render obvious a system whereby buyers and sellers do not interact at all to negotiate a transaction, but rather, whereby a third party broker receives information from the buyer and sellers, and the third party broker negotiates and concludes purchases and sales of a dairy product without either the buyer or seller ever interacting with each other.

Accordingly, Claim 12, as amended, is not believed to be rendered obvious to one of ordinary skill in the art at the time the invention was made in view of the *Friend et al.* reference, and accordingly, Claim 12 is believed to be allowable under 35 U.S.C. § 103(a) over the *Friend et al.* reference.

Claims 13-28 each depend either directly or indirectly from amended Claim 12, and accordingly, as believed allowable under 35 U.S.C. § 103(a) over the *Friend et al.* reference for the same reasons as Claim 12.

## **5. New Claims**

New Claims 29-37 set forth a computer-readable medium having stored thereon program instructions executable by a computer to perform a method of facilitating commercial dairy product trading transaction by a broker. The method, as set forth in Claim 29, includes the steps of establishing a database having categories corresponding to buyers, sellers, and product in the commercial dairy product marketplace, providing a first interface for inserting data into the database, providing a second interface for extracting data from the database, displaying the data for review by a broker, and utilizing the extracted data to facilitate a brokered dairy product trading transaction between at least one buyer and at least one seller. (See: ¶ 0073 of the published application No. 2002/0107746 A1). New Claim 29 is believed allowable over

the cited references, and in particular, the *Friend et al.*, reference, as none of the cited references are believed to set forth and describe a system or method for enabling a brokered dairy product trading transaction.

New dependent Claims 30 and 31, both of which depends from Claim 29, requires that the database of Claim 29 further include dairy product hauler information, and that the hauler information is accessible to identify and select hauler to effect shipment of a dairy product. (See: ¶s 0054, 0055, and 0063 of the published application No. 2002/0107746 A1).

New dependent Claim 32 requires that the method of Claim 29 further include the step of utilizing an interface to the database to identify one or more buyers and one or more sellers for a desired dairy product, and presenting the resulting identified buyers and sellers to a broker. (See: ¶ 0073 of the published application No. 2002/0107746 A1).

New dependent Claims 33-36 depend from Claim 29, and relate to the step of inserting data into the database, including buyer information, seller information, and dairy product information. This information may include contact information for either a buyer or seller, or dairy product information including prices, product purchasers, product sellers, and product haulers. (See: ¶s 0050, 0051, 0054, 0058 and 0060 of the published application No. 2002/0107746 A1).

New dependent Claim 37 depends from Claim 29, and requires the step of providing a load-settlement interface for inserting data into the database, specifically, load settlement data. (See: ¶s 0067-0069 of the published application No. 2002/0107746 A1).

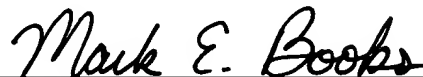
Each of new dependent Claims 30-37 is believed allowable over the cited references, and in particular, the *Friend et al.*, reference, as none of the cited references are believed to set forth and describe a system or method for enabling a brokered dairy product trading transaction.

**6. Conclusion**

Based on the foregoing, the examination of Claims 4-7 and 12-37 is requested.

If for any reason the Examiner is unable to allow the application on the next Office Action and feels that an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to contact the undersigned attorney for the purpose of arranging such an interview.

Respectfully submitted,



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Mark E. Books, Reg. No. 40,918  
Polster, Lieder, Woodruff & Lucchesi, L.C.  
12412 Powerscourt Drive, Suite 200  
St. Louis, Missouri 63131  
Tel: (314) 238-2400  
Fax: (314) 238-2401  
[mbooks@patpro.com](mailto:mbooks@patpro.com)